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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/036,743 | 12/21/2001 | Thomas G. Tricbes | KCX-495 (17557) | 3702 |

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EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,743

Applicant(s)

TRIEBES ET AL.

Examiner

Catherine Simone

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/11/05.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Repeated Rejections

1. The 35 U.S.C. 103 rejection of claims 36-42, 44-46, 48, 49-60, 62-64 and 66-70 over Littleton et al. in view of Nash is repeated for the reasons previously set forth in the Office Action mailed 4/18/05, Pages 3-5, Paragraph #11.
2. The 35 U.S.C. 103 rejection of claims 47 and 65 over Littleton et al. in view of Nash and in view of Littleton et al. is repeated for the reasons previously set forth in the Office Action mailed 4/18/05, Pages 5-6, Paragraph #12.
3. The 35 U.S.C. 103 rejection of claims 43 and 61 over Littleton et al. in view of Nash and in view of Miller et al. is repeated for the reasons previously set forth in the Office Action mailed 4/18/05, Page 6, Paragraph #13.

Response to Arguments

4. Applicant's arguments filed 8/19/05 have been fully considered but they are not persuasive. Applicants argue that "no motivation would have existed to combine Littleton et al. with Nash in the manner suggested in the Office Action. Rather, it appears that the only incentive or motivation for combining the references results improperly from using Applicants' disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art. Applicants emphasize that a determination of obviousness cannot be based on the hindsight combination of components selectively pulled from the prior art to fit the parameters of the patented invention".

Art Unit: 1772

In response to applicant's argument that there is no suggestion to combine the references (Littleton et al. and Nash), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Littleton et al. clearly teaches an elastomeric glove comprising a substrate body having an inside surface and an outside surface made of at least one elastomeric block copolymer (see col. 3, lines 14-20) and a donning layer overlying the inside surface of the substrate body (see col. 3, lines 3-8). Nash was merely cited for suggesting that it is old and well-known in the art to have a chemical protection layer consisting essentially of at least one crosslinked, modified silicone elastomer overlying the outside surface of an elastomeric glove (see page 2, lines 49-51 and 56-57) and it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the elastomeric glove of Littleton et al. with a chemical protection layer consisting essentially of at least one crosslinked, modified silicone elastomer on its outside surface as suggested by Nash in order to provide sufficient durability to withstand the physical and chemical properties of these extreme environments. One skilled in the art would clearly be able to provide the outside surface of the elastomeric glove in Littleton et al. with a chemical protection layer consisting essentially of at least one crosslinked, modified silicone elastomer to impart chemical resistance, if so desired.

Furthermore, Applicants argue that "even if combined, the above-cited references still fail to disclose each limitation of independent claims 36, 54 and 67. For instance, neither

Art Unit: 1772

reference contemplates a layer that provides relative chemical resistance to the elastomeric article. Instead, both the donning layer of Littleton et al. and the textured layer of Nash are designed to improve donning of the glove. To accomplish the function of improved donning, the layers of Littleton et al. and Nash overlie the wearer-contacting or “inside” surface of the glove. Independent claims 36, 54 and 67, however, require that the claimed chemical protection layer overly the “outside” surface of the article.” However, it is to be pointed out again that Nash teaches a chemical protection layer consisting essentially of at least one crosslinked, modified silicone elastomer that overlies the *outside* surface of an elastomeric glove and provides chemical resistance to the elastomeric glove (see page 2, lines 49-51 and 56-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant’s invention was made to have provided the elastomeric glove of Littleton et al. with a chemical protection layer consisting essentially of at least one crosslinked, modified silicone elastomer on its outside surface as suggested by Nash in order to provide sufficient durability to withstand the physical and chemical properties of these extreme environments.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


Art Unit: 1772


will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Catherine A. Simone
Examiner
Art Unit 1772
November 3, 2005


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/9/05